

**HAMPTON ZONING BOARD OF ADJUSTMENT
SPECIAL MEETING
MINUTES – *Draft*
June 12, 2014**

Members Present

Bryan Provencal, Chairman
Norma Collins, Clerk
Tom McGuirk
Ed St. Pierre
James Sculley (Alternate)

Chairman Provencal called the meeting to order at 7:00 p.m.

The Pledge of Allegiance was said.

Board members were introduced.

PETITION SESSION

20-14...Fest Events of New England Inc. seeking relief from Article 3.14 of the Town's building and zoning ordinances to allow for mechanical rides at a proposed fair to be held at the Hampton Beach State Park South from June 19th through June 22nd. This property is located on Map #299, Lot #22 in the General Zone.

Jude David and Gene Dean of Fest Events came forward. Ms. David said this fair is essentially the same as the fair held last year except it is much smaller. It is approximately one-half the size. Last year the fair took place under the same Special Use Permit. It was marketed as a State event. The location was chosen because it was 100% on State property. Last year there was no permit required by the Town of Hampton.

Ms. David said she was recently told that a permit would be needed from the Town and it would be necessary to go before the Zoning Board. Each year DRED puts its Special Use Permits out to the Town. Apparently that didn't happen this year. Ms. David said she has always applied for any permit that she was aware was needed. According to DRED no other permits were needed.

Ms. David said there were no complaints about the fair last year. It was a beautiful event and was put together to extend the tourism season. The owners of Fest Events have a lot of money on the line and now are being told the event might not happen. Ms. David went through the five criteria and said she felt they had been met.

Questions from the Board

Mr. St. Pierre asked if alcohol would be served at the fair. Ms. David said it would not. Mr. St. Pierre asked if any local charities would benefit. Ms. David said she would allow charities to have free booths.

Mr. St. Pierre said it came down to whether this was a governmental or private event. Mr. Sculley said he felt the confusion was due to the fact that last year Ms. David was an employee of the State and this year this is being put on by a private company.

Mr. St. Pierre asked if there was presently an Events Coordinator at the State. Ms. David said there was not.

Comments from the Audience

Tom Higgins, 83 Ocean Blvd., said he felt the Town should have a "How can we help you" attitude rather than making it more difficult.

Charlie Preston said he was looking at this from a taxpayer's viewpoint. He said there is a lot of housecleaning that needs to be done. The Town needs to sit down with the State to address this issue. Mr. Preston said there could be costs for Police and Fire, etc. Mr. St. Pierre commented that the Public Gathering License from the Town covers a lot of these issues.

Mark Gearreald, Town Counsel, came forward. Mr. Gearreald said this was happening because of the late notice that the Town received. He said he was not here to argue against the event, but to counter any argument that a variance is not needed.

Mr. Gearreald said RSA 674:54 addresses governmental use of property. IIA says any use of land occurring on governmental owned or occupied land is subject to land use regulations. The Board of Selectmen is responsible for enforcement. This is a private function that was given a permit on March 6th by DRED. It is being done by a private entity. If there are activities that are prohibited by the Town, that does not mean they can occur just because the State says they can. Relying on a single word "Tourism" does not mean anything goes. This is not wise. Mr. Gearreald said there were a number of points on which he felt the variance should be granted. This is an opportunity for the Board to speak as the community's conscience in applying the ordinance.

Mr. St. Pierre asked if all the proper forms of relief were being sought. Games of chance are advertised. Mr. Gearreald said that refers to charitable gaming so is not a problem. Mr. Gearreald said if this variance is granted that is all that is needed.

Back to the Board

Ms. David said this was groundbreaking because there are many festivals that take place that would now need variances and a Public Gathering License. This would include the Seafood Festival, Penguin Plunge event, etc. This would affect around 35 events. Ms. David

asked if they would all need to do this. Chairman Provencal said that if the State is putting them on they are exempt. This event is being put forward by a private business.

Chairman Provencal said if this petition is granted, it opens the door for other people to have the same hardship to do the same thing which doesn't protect the local businesses.

Ms. Collins said there are a lot of Special Use Permits that do not violate any ordinances. When you look at tourism, advantages of activities in NH are promoted such as skiing, hiking, etc. Carnivals are different. Ms. Collins said there are many carnivals, but she does not see them as benefiting tourism per se, but more as something that generates revenue for the State.

Mr. McGuirk said the fair did bring people in last year. He said he does believe it benefits the beach as a whole. Mr. McGuirk said he was in favor of granting this petition with some stipulations.

Moved by Mr. St. Pierre, seconded by Mr. McGuirk, to grant Petition 20-14 for four days prior to June 30th. There is to be only one carnival per year.

Chairman Provencal asked the Board if they felt the five criteria had been met. All members agreed that they had with the exception of Chairman Provencal who said he would abstain.

Vote: 4 yes, 0 no, 1 abstention (Provencal). Motion passed.

Adjournment

There being no further business, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Joan Rice
Secretary